

**FREDERICK COUNTY BOARD OF APPEALS**  
**STAFF REPORT VIRTUAL MEETING ON JANUARY 27, 2022 @ 7pm**

**Case Number:** B267728 (B-22-04)

**Applicant:** Classic Design Group Inc. (Contractor) on behalf of the owner(s) of the Property (defined below)

**Appeal:** Requesting a 12'6" variance to a 30' rear building restriction line in order to build a small addition, in accordance with Section 1-19-3.220 Variances and Section 1-19-6.100 Design Requirements of the Frederick County Zoning Ordinance. If approved, the variance would create a 17.6' rear building restriction line.

**Location:** The Property is described as 3428 Winmoor Drive, Ijamsville, MD 21754, Tax Map 0106, Parcel 0108, Zoning, Limited Industrial (LI), Size 10,350 sq. ft.

**Planning Region:** Urbana

**Zoning District:** Low Density Residential (R1)

**Comp. Plan Designation:** Low Density Residential

**Applicable Ordinances:** Sec. 1-19-3.220 Variances  
Sec. 1-19-6.100 Design Requirements

**Background**

The property is zoned Low Density Residential. The required setbacks for lands zoned (R1) are front – 40', side – 8', rear – 30'.

**Proposal:**

The Applicant is requesting a 12'6" variance to a 30' rear building restriction line in order to build a 320 sq. ft. addition, in accordance with Section 1-19-3.220 Variances and Section 1-19-6.100 Design Requirements of the Frederick County Zoning Ordinance. If approved, the variance would create a 17.6' rear building restriction line. (Attachment 1)

**General Criteria - Variance:**

Under the provisions of Section 1-19-3.220(C) of the Frederick County Zoning Ordinance, the Board of Appeals shall not grant a variance unless and until a public hearing is held and all of the following criteria are met:

- (A) The Board of Appeals may authorize a variance in height, lot area and yard regulations.

***The Applicant states that they understand this provision.***

- (B) An application for a variance shall be filed with the Board of Appeals only after refusal of zoning approval or an adverse determination has been issued by the Zoning Administrator.

***The Applicant states that they were directed to the Board of Appeals process by the Frederick County Division of Planning.***

- (C) The Board of Appeals shall not grant a variance unless and until a public hearing is held and all of the following criteria are met:

- (1) First, the Board of Appeals shall find that special conditions and circumstances exist which are unique to the land or structure involved and which are not applicable to other lands or structures in the same district.

***The Applicant states that the property is unique in that the home is placed farther back than most homes in the neighborhood and that the HOA would not approve the addition along the side of the home that may have alleviated the need for a variance. There are no homes located on the land behind the Applicant's Property, which is owned by the HOA.***

- (2) Upon making this finding the Board of Appeals shall also find that the following criteria are met:

- (a) That the special conditions and circumstances do not result from the actions of the applicant; and

***The Applicant states that the need for the variance is not based on any actions by the Applicant and is based on the topography of the lot and the need to provide a play area for an immune compromised child.***

- (b) The literal interpretation of the provisions of Chapter 1-19 of the Frederick County Code would result in unreasonable hardship and deprive the applicant of rights

commonly enjoyed by other properties in the same district under terms of Chapter 1-19 of the Frederick County Code; and

***The Applicant states that they believe they need to provide this room and that they attempted to provide an alternative that the HOA turned down; they have made an attempt to build within the County zoning rules but this alternative was the only option.***

- (c) That granting the variance will not confer on the applicant any special privilege that is denied by Chapter 1-19 of the Frederick County Code to other lands or structures in the same district; and

***The Applicant states that the approval of the variance would not confer any special privilege on the Applicant.***

- (d) That the granting of the variance will be in harmony with the general purpose and intent of Chapter 1-19 of the Frederick County Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

***The Applicant states that the variance will be in harmony with the neighborhood and will not be detrimental to the public welfare. The rear addition to the residence will have no impact on the surrounding community. As previously stated, there are no homes behind the Applicant's Property.***

- (D) In granting the variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with Chapter 1-19 of the Frederick County Code. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, is a violation of Chapter 1-19 of the Frederick County Code.

***The Applicant states that they understand this requirement.***

- (E) Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of Chapter 1-19 of the Frederick County Code in the zone involved, or any use expressly or by implication prohibited by the terms of Chapter 1-19 of the Frederick County Code in said zone.

***The Applicant states that they understand this requirement.***

- (F) Under no circumstances shall the Board of Appeals grant a variance to a nonconforming structure for the portion of structure determined by the Zoning Administrator to be nonconforming.

***The Applicant states that they understand this requirement.***

- (G) A decision of the Board of Appeals granting a variance will be void 2 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been

received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

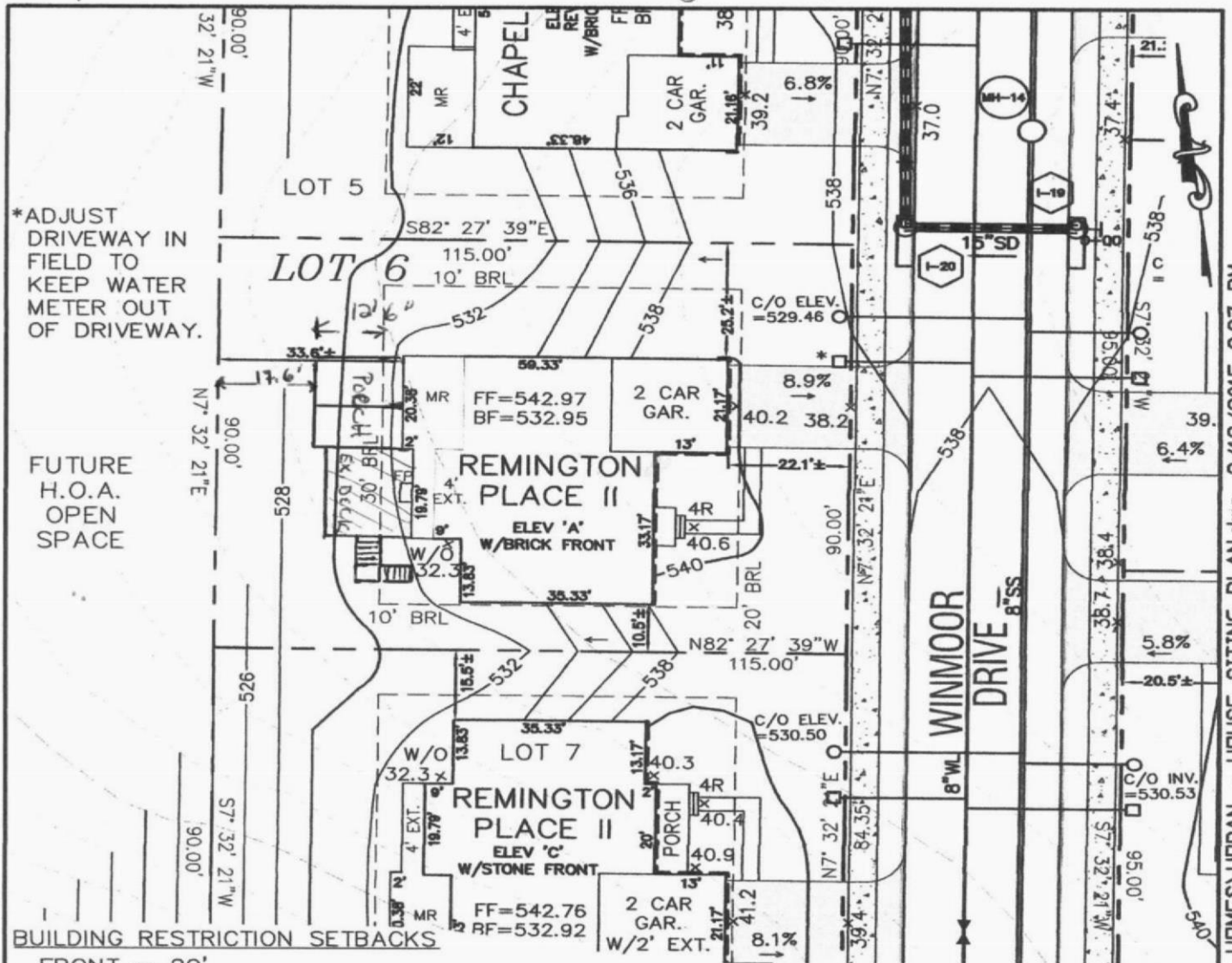
*The Applicant states that they understand this requirement.*

**Actions Needed:**

Staff requests that the Board review the general criteria for a variance under Section 1-19-3.220 Variances and Section 1-19-6.100 Design Requirements of the Frederick County Code and render a decision on the Applicant's request for a 12.6 ft. variance from the 30 ft. required rear building restriction line in order to construct an addition to the existing residence.

**Attachment 1**

Purposed Porch over Existing Dock



BUILDING RESTRICTION SETBACKS

FRONT = 20'  
REAR = 30'  
SIDES = 10'

LOT AREA = 10,350 SF OR 0.238 AC ±  
MEAN ROOF HEIGHT = 29' ±  
MEAN ROOF ELEVATION = 570 ±

SITUATED OFF SOUTH WINMOOR DR.  
URBANA ELECTION DISTRICT #7

LOT PLAN LOT 6  
3428 WINMOOR DRIVE  
PRESERVE AT WINDSOR KNOLLS  
(HORAN AT WINDSOR KNOLLS)  
OWNER: BUCKEYE HORAN, LLLP  
PREPARED FOR NV HOMES

SCALE: 1" = 30'

DATE: 2/12/15  
DATE: 2/23/15

JOB #: 6565

**Harris, Smariga & Associates, Inc.**

Planners/Engineers/Surveyors  
125 South Carroll Street, Frederick, MD 21701  
(301) 662-4488



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